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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,861	10/17/2003	Anthony J. Griggs	W0550.70000US00	9578
64748	7590	11/12/2008	EXAMINER	
HEXAGON METROLOGY c/o WOLF, GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206			BAHTA, KIDEST	
		ART UNIT	PAPER NUMBER	
		2123		
		MAIL DATE		DELIVERY MODE
		11/12/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* ANTHONY J. GRIGGS, CHARLES BURBANK,  
WILLAIM WILCOX and KENNETH WOODBINE

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Application No. 10/687,861  
Technology Center: 2100

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Mailed: November 12, 2008

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Before Deborah L. Perry, *Supervisory Paralegal Specialist.*  
Perry, *Supervisory Paralegal Specialist.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 14, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on January 8, 2007, in response to the Examiner's Answer mailed a Communication entitled Reply Brief Filed on February 21, 2008.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed February 21, 2008, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) vacate the Communication mailed February 21, 2008;

2) generate and mail either:

a) a revised Communication properly acknowledging to the Reply Brief dated January 8, 2007, in accordance with MPEP§ 1208, part II.; OR

- b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate;
- and
- 3) Any other action as appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP

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